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IN THE

Supreme Court of the United States

October Term, 1949.

No. 823.

EDWIN H. PILSON, *Petitioner*,

v.

MARJORIE PILSON SALVONI, *Respondent*.

BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI.

LAWRENCE CAKE,
MATTHIAS MAHORNER, JR.,
Counsel for Respondent.

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INDEX.

Page

Respondent's statement in reply to petition for certiorari 1

CASES CITED.

Hanger v. Abbott, 6 Wall. 532 2
Pilson v. Salvoni, 65 App. D. C. 55, 79 F. 2nd 411 1

STATUTES CITED.

D. C. Code (1940), Title 15, sec. 101 2
Trading with the Enemy Act, 50 U. S. Code App. 2

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The parties in this case are a divorced husband and wife, and the decision of the Court of Appeals—which the petitioner seeks to have reviewed by this court—involves the question of the validity of a money judgment in favor of the wife (respondent) for maintenance and the support of children.

The judgment was entered on October 12, 1934, in the Supreme Court of the District of Columbia, now the United States District Court (R. 1), and was affirmed by the Court of Appeals on July 29, 1935, in *Pilson* v. *Salvoni,* 65 App. D. C. 55, 79 F. (2nd) 411. It has never been paid.

On September 22, 1948, respondent, by her present attorneys, filed a motion to revive and extend the judgment, supporting the motion by a showing that she had been residing in Italy since 1937, that the United States was at war with Italy from December 11, 1941, to September 15, 1947, that during the war respondent was in an enemy country and therefore an "enemy" of the United States under the Trading with the Enemy Act, and that during that period the statute of limitations on the judgment was suspended (R. 8-9).[1]

The District Court overruled the motion to revive and extend the judgment (R. 10-12). The Court of Appeals reversed (R. 17-21, 24), holding (1) that the statute of limitations was suspended by the war and respondent's absence in an enemy country, and (2) that the fact that during the war an unsuccessful attempt was made in respondent's behalf by her then attorneys of record to satisfy the judgment through garnishment proceedings did not have the effect of preventing the suspension of the statute of limitations.

The petition for certiorari prays review by this court, chiefly on the ground that the circumstances of this case take it out of the general rule, established as early as 1868 in *Hanger* v. *Abbott*, 6 Wall. 532, that statutes of limitation are suspended in time of war between the citizens and residents of enemy countries, because in this case—during the war and while she was in Italy—an unsuccessful attempt was made by respondent's attorneys of record to satisfy the judgment by garnishment proceedings.

Respondent submits that the petition should be denied.

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[1] The life of a judgment in the District of Columbia being twelve years (D. C. Code, 1940 Ed., Title 15, sec. 101), this judgment would in the ordinary course of events have expired on October 12, 1946, unless previously extended by appropriate action in the nature of scire facias, or unless for some reason the statute was suspended during all or part of the twelve years period of limitation.

It involves no question of general importance or public interest.

The decision of the Court of Appeals and the reasons therefor as stated in the court's opinion (R. 16-20, 24) are correct.

Respectfully submitted,

LAWRENCE CAKE,
MATTHIAS MAHORNER, JR.,
Counsel for Respondent.